

1 William D. Hyslop  
2 United States Attorney  
3 Eastern District of Washington  
4 Stephanie Van Marter  
5 Assistant United States Attorney  
6 Post Office Box 1494  
7 Spokane, WA 99210-1494  
8 Telephone: (509) 353-2767

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, )  
Plaintiff, ) 2:19-CR-06063-SMJ  
v. ) 2:19-CR-00183-SMJ  
MONICA PESINA, ) 2:20-CR-00005-SMJ-2  
NICHOLAS SEAN CARTER )  
Defendant. )  
NOTICE OF INTENT TO USE  
EXPERT TESTIMONY

Plaintiff, United States of America, by and through William D. Hyslop, United States Attorney for the Eastern District of Washington, and Stephanie Van Marter, Assistant United States Attorney for the Eastern District of Washington, respectfully submits the following information/notice, pursuant to Rule 16(a)(1)(G) of the Federal Rules of Criminal Procedure, of its intent to introduce expert testimony by United States' witness listed below and a summary of the anticipated testimony.<sup>1</sup>

---

<sup>1</sup> This Notice of Expert was prepared by the assigned Assistant United States Attorney and not written or reviewed by the proposed expert. Therefore, this written notice does not contain any adopted statements of the proposed expert witness; any questions from counsel should be derived from reports the proposed expert authored only.

## 1 FORENSIC CHEMISTS

2 Attached please find "Curricula Vitaes" for Forensic Chemist/Scientists, Leah  
3 Law, KeiShara Eldridge, Jonathan Park, Brittany Thomas, Shana Irby, Danielle  
4 Farrell, Tari Holm, Minh Nguyen, and Steven Aliyetti, of the Drug Enforcement  
5 Administration Laboratories. (*See*, Government's Exhibit A-1 through A-9)<sup>2</sup>. These  
6 DEA forensic chemists were assigned to this cause number and therefore conducted  
7 the testing for the drug evidence sought to be admitted in this matter. Should this  
8 matter go to trial The United States will likely present the testimony of just a few of  
9 the listed chemist. If that were to occur, the testifying chemists will ensure they are  
10 able to testify as to all of the testing conducted.

11 The United States will seek to admit the opinion of these listed chemists  
12 summarized in the lab reports previously provided and noted by their discovery pages  
13 below. The United States is also in the process of disclosing additional Rule 16  
14 materials to include the raw data, notes and procedures followed for all testing  
15 conducted.

### 16 **Drug Exhibits to Be Admitted:**

17 1) 2:19-CR-06063-SMJ- June 2019 Pasco WA case-

18 *FBI Drug Exhibits 1B12, 1B21, 1B28*<sup>3</sup>: Packaging and controlled substances  
19 confirmed to contain methamphetamine and heroin seized from the Defendants  
20 during the June 2019 traffic stop. *See*, discovery pages 3000011-13.

21  
22 <sup>2</sup> Additional Curricula Vitaes will be provided once received.

23 <sup>3</sup> The following samples were not sent to the lab for testing due to their residual  
24 amounts: 1B13-16, 1B18, 1B20, 1B22, 1B24, 1B26, 1B29. The following additional  
25 exhibits should have completed reports within the next few weeks: 1B10, 1B11, 1B17,  
26 1B19, 1B23, 1B25 and 1B27. The United States will provide these reports as soon as  
27 they are completed. Several of these items have also been sent for fingerprint  
28 examination. Results are forthcoming.

1       2) 2:19-CR-00183-SMJ- October 2019 Spokane WA case-

2           DEA *Drug Exhibits 37 and 38*: Packaging and controlled substances  
3           confirmed to contain methamphetamine and heroin seized from the  
4           Defendant during the October 2019 arrest in Spokane. *See*, discovery pages  
5           3000015-16.

6       3) 2:20-CR-5-SMJ- November 2019 Dixie WA case-

7           DEA *Drug Exhibits 1,2, 4, 20, 21, 22, 7 and 38*<sup>4</sup>: Packaging and controlled  
8           substances confirmed to contain methamphetamine, heroin, Fentanyl laced  
9           pills, and cocaine base seized from the Defendants and from the search of  
10           the residence in Dixie WA. *See*, discovery pages 300001-10.

11           More specifically, the United States will seek to admit their expert testimony as  
12           to the chemical testing and analysis conducted on the above referenced samples  
13           submitted. This expert testimony will include their opinion as to the type of  
14           controlled substance present; the purity of controlled substance and how that relates to  
15           the overall weight of each sample; the presence or lack of presence of any cutting  
16           agents; and the total weight of each evidentiary item both in purity and mixture and  
17           substance of controlled substance present. The United States will also solicit detailed  
18           testimony from these experts as to the identification of Fentanyl and what type of  
19           controlled substance it is and its characteristics. These proposed experts will also  
20           testify about their background and qualifications, the commonly accepted scientific  
21           methodology followed in reaching their conclusions as well as the peer review  
22           completed to test the accuracy of their results.

23  
24  
25       <sup>4</sup> The following samples were not sent to the lab for testing due to their residual  
26           amounts: Exhibits 12, 16, 17, and 19. Several of these items have also been sent for  
27           fingerprint examination. Results are forthcoming.

The United States will also provide additional Rule 16 materials to include the raw data, notes and procedures followed for all testing conducted as soon as it is received. The United States will also provide any summary exhibits it intends to utilize in support of this experts testimony prior to trial.

## **FINGERPRINT SPECIALIST**

The United States has not yet received any reports as to fingerprint examination done on several of the exhibits. There are currently four items pending fingerprint examination results. As soon as those reports are completed, the United States will supplement this report. At trial, the United States intends to present the testimony and opinions of the assigned fingerprint specialist as it relates to any completed fingerprint examinations and the respective results.

The fingerprint examiner would be expected to testify as to his/her educational background and expertise in latent print examination. They will then provide expert testimony, as detailed in the provided reports, of the latent print examination of the various exhibits, detailing what was examined and whether any fingerprints suitable for comparison were developed utilizing various forensic methods. If a fingerprint suitable for examination was developed, the examiner will testify as to the comparison of that fingerprint to known fingerprints of the Defendant.

The United States also intends to seek expert testimony about why fingerprints are sometimes not found on exhibits submitted for analysis. The United States will also provide additional Rule 16 materials to include the raw data, notes and procedures followed for all testing conducted as soon as it is received. The United States will also provide any summary exhibits it intends to utilize in support of this experts testimony prior to trial.

## **INTERSTATE NEXUS/FIREARM EXPERT**

Attached please find a "Curriculum Vitaes" for ATF Special Agents Michael Northcutt and Justin Schaefer. (*See*, Government's Exhibit C-1 and C-2). The United

1 States expects SA Northcutt and Schaefer to testify as expert witnesses as to the  
2 interstate/intrastate nexus of the following firearms:

3

4

5

6

7

8

9

10

11

12

- HiPoint, Model C9, 9mm pistol, bearing serial number P1245061, also marked "BEEMILLER INC MANSFIELD OH" and Nine rounds of 9 mm caliber ammunition with various handstamps (Firearm and ammunition seized from CARTER, October 2019);
- Glock, model 23, .40 caliber pistol, bearing serial number "BYR906." (Firearm seized from CARTER, June 2019)
- Beretta, model 92 FS, 9mm pistol bearing serial number BER513205 (Firearm seized from CARTER, November 2019);
- Glock, model 26, 9mm pistol bearing serial number BBTU921 (Firearm seized from CARTER, November 2019).

13 A written summary of the agents findings were previously provided in  
14 discovery. *See* Discovery Pages 10000147-149; 300006-9, 3000017-19. Based on  
15 their examination and research of the above described firearms and ammunition, at  
16 trial the government will seek to admit the opinions of Special Agents Northcutt and  
17 Schaefer as to their firearms examination results, indicating that in their professional  
18 opinion, the above described firearms examined are firearms as defined in Title 18  
19 U.S.C. § 921(a)(3)(A) and that these firearms have been shipped or transported in  
20 interstate commerce.

21 **DRUG QUANTITY AND MODUS OPERANDI EXPERT**

22 The United States expects to call a Federal Bureau of Investigation Task Force  
23 Officer to testify as an expert witness regarding drug quantities and *modus operandi*.  
24 The United States expects the witness to testify as to the differences between  
25 distribution amounts and personal use amounts, the common amount of heroin,  
26 methamphetamine and Fentanyl laced pills consumed daily by a user, the use of  
27 cutting agents, how controlled substances are obtained in bulk amount and cut to  
28 distribution amounts, and the various price amounts on the pyramid of bulk

1 distribution versus personal amount distribution. In sum, the witness is expected to  
2 provide expert testimony regarding the methods of low and mid-level drug traffickers,  
3 what roles low and mid-level drug traffickers assume, and how their supply is  
4 commonly distributed and paid for. The United States further expects the expert to  
5 testify regarding the price range of methamphetamine, heroin and Fentanyl laced pills  
6 in the Eastern District of Washington during the time frame relevant to the Indictment  
7 in Cause Number 2:18-CR-00230-RMP-1.

8 The United States also expects the witness to testify as to common drug  
9 terminology and how that terminology is used in the sale and distribution of the  
10 aforementioned controlled substances. The United States further expects the witness  
11 to testify to the use of technology, specifically cellular phone technology, in the sale  
12 and distribution of controlled substances.

13 The United States further expects the expert to testify as to the nexus between  
14 drug trafficking and firearms.

15  
16 DATED this May 4, 2020.

17 William D. Hyslop  
18 United States Attorney

19 S/Stephanie Van Marter  
20 Stephanie Van Marter  
21 Assistant United States Attorney

1  
2  
3  
4  
**CERTIFICATE OF SERVICE**  
5

6 I hereby certify that on May 4, 2020, I electronically filed the foregoing with  
7 the Clerk of the Court using the CM/ECF System which will send notification of such  
8 filing to the following, and/or I hereby certify that I have mailed by United States  
9 Postal Service the document to the following non-CM/ECF participant(s):

10 Adam Pechtel  
11 [adam@pechtellaw.com](mailto:adam@pechtellaw.com)

12 Nicholas Write Marchi  
13 [nmarchi@carmarlaw.com](mailto:nmarchi@carmarlaw.com)

14  
15  
16 *s/Stephanie Van Marter*  
17 Stephanie Van Marter  
18 Assistant United States Attorney  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28